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OGC Has Reviewed

The Executive Branch opposes S-2253. This bill, if enacted, would seriously undermine the effectiveness of our security assistance programs.

Aside from raising Constitutional questions that may restrict the President's authority to conduct negotiations with other countries, S.2253 would make it impossible for recipients of security assistance to react quickly in emergency situations. Given the rapidity with which modern warfare is conducted, this restriction could preclude governments receiving United States security assistance from effectively responding to external attack. Moreover, there is always a great risk in establishing criteria in anticipation of situations in which friendly foreign governments might have to conduct legitimate military operations beyond its borders. If S.2253 had been the law in June 1967, Israel would not have been able to launch military operations beyond her borders for legitimate self-defense without the prior approval of the United States Congress.

The provision of defense articles or defense services inescapably enables a government to finance military operations outside its borders and hence falls

State Dept. review completed. On file OMB release instructions apply.

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within the term "by any means" contained in S.2253. Yet according to Section 502 of the Foreign Assistance Act of 1961, as amended, a recipient nation may use military training and equipment provided by us for its legitimate self-defense. In short, S.2253 would require that recipients of foreign security assistance allow the United States Congress to determine in advance what steps they can take for their legitimate self-defense. No nation with any sense of national sovereignty would accept assistance under such conditions.

Secondly, S.2253 would change that portion of Section 502 of the Foreign Assistance Act of 1961, as amended, which authorizes furnishing defense articles and services "to permit the recipient country to participate in regional or collective arrangements or measures consistent with the Charter of the United Nations."

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~~470~~ This would have an adverse worldwide impact on regional security pacts. For example, under S-2253, NATO allies who receive United States security assistance would be unable to undertake collective defense measures outside their own borders, without the prior approval of the United States Congress. Similarly it would prohibit joint training exercises by friendly governments which receive United States security assistance, and finally, this prohibition would require that the Congress approve all naval operations performed by the forces of friendly governments on the high seas prior to the time that these operations take place. Such a restriction would make it impossible for us to use security assistance programs as an instrument to promote our national security.

In Southeast Asia, for example, there is also no question that the evolving cooperative relationships ~~among~~ between the free nations of Indochina are consistent with the Charter of the United Nations. There is also no question that these cooperative arrangements are crucial to the success of the Vietnamization program

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and to the whole thrust of the Nixon Doctrine. For the Nixon Doctrine in Southeast Asia means that as friendly nations assume more of the direct burden of the conflict we will increase our material assistance so as to help them help each other in defending their countries against a common enemy. US support for these cooperative efforts is essential if they are to be successful.

The enactment of legislation like S.2253 which would restrict the use of United States security assistance in effectively assisting friendly states to work cooperatively together to meet a common threat seriously undermine the Vietnamization program and increase the chances of a North Vietnamese takeover of all of Indochina.

Finally, Subsection (b) of Section 511 would require the Executive Branch to disclose to the Congress detailed plans for proposed military operations to be undertaken by friendly foreign governments prior to launching these operations which would pose unacceptable risks of a security breach.

The Office of Management and Budget advises that from the standpoint of the Administration's program there is no objection to the submission of this report.

Sincerely

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Remarks: <p>The attached is for your files.</p> <p>Mr. Houston advised Robert Grey, Bureau of Politico-Military Affairs, Office of Military Assistance and Sales, Department of State (101 22280) that we had no problem with the attached draft.</p> <p><i>There are 20 more good points. Be sure to get in 5 2253. J. L. J.</i></p>					
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